



# **Federal Communications Commission**

**October 27, 2010**

# OVERVIEW

- Rapid approval of Virgin Mobile USA's pending requests for limited designation as a facilities-based eligible telecommunications carrier (ETC) would enable the Company to bring the benefits of prepaid wireless Lifeline services to additional customers as soon as possible.
- Expeditious grant of the Company's request to waive or modify the terms of its compliance plan would streamline and simplify the Lifeline enrollment process for legitimate, eligible customers in several states where the Company is presently offering Lifeline services—without changing our stringent review and verification procedures.
- Continued delay in granting these requests is harming lower-income customers and hindering competition for wireless Lifeline services.



## VIRGIN MOBILE LIFELINE OFFERING

- Minutes: 250 anytime minutes.
- Price: Free to eligible customers.
- Taxes and Fees: None. (No additional charges for activation.)
- Extras: Free voice mail, caller I.D. and call waiting.
- Handset: Free (E911 compatible).
- Long-Term Contract: None.



## VIRGIN MOBILE LIFELINE OFFERING (cont'd)

- Lifeline customers have three options for purchasing additional voice minutes and text messages:
  - Option 1: \$0.10 for individual voice minutes and text messages.
  - Option 2: \$5/month for 250 additional voice minutes.
  - Option 3: \$20/month for 750 additional voice minutes + 1000 text messages.
- No obligation for customers to purchase additional offerings; all customers continue to receive 250 free monthly minutes.
- Consistent with current practice, minutes and text messages do not carry forward from month-to-month.



## LIFELINE STATUS

- Virgin Mobile's Lifeline services are currently available in Florida, Louisiana, Maryland, Michigan, New Jersey, New York, North Carolina, Tennessee, Texas, Virginia and West Virginia.
  - Virgin Mobile expects to launch in Mississippi shortly.
- The Company's launch of Lifeline services in these states has been a tremendous success.
- Virgin Mobile's prepaid wireless Lifeline services have become essential for lower-income customers in these states, providing them with significant value, access to emergency services and a reliable means of contact for prospective employers or social service agencies.
- Many lower-income customers would not otherwise access wireless services without Virgin Mobile's Lifeline offering.



# ETC APPLICATIONS

- Virgin Mobile has requests for limited ETC designation pending with the Commission for the states of Alabama, Connecticut, Delaware, New Hampshire and Washington D.C.
- Expeditious approval of these requests would expand the availability of prepaid wireless Lifeline services and increase competition for Lifeline services in these states.
- Virgin Mobile's petitions unquestionably demonstrated the Company's satisfaction of the requirements for ETC status:
  - As the Commission previously determined, the Company provides all of the services and functionalities supported by the universal service program throughout its designated service territory in each of the requested states, including voice grade access to the PSTN, DTMF signaling, emergency services and access to operator and interexchange services.



## ETC APPLICATIONS (cont'd)

- Virgin Mobile's ETC petitions also demonstrated that the Company is a common carrier that currently provides the supported services over an existing and owned network infrastructure in the requested states.
- As noted in its requests, Virgin Mobile was acquired by Sprint in November 2009 and is now a wholly owned subsidiary of Sprint.
- As such, Virgin Mobile has beneficial use of Sprint's wireless facilities and is appropriately classified as a facilities-based carrier for purposes of section 214(e)(1)(A) of the Communications Act.
- Virgin Mobile's facilities-based status has been confirmed by the PUCs of the states of Florida, Louisiana, Maryland, Michigan, Mississippi, New Jersey, Texas and West Virginia, each of which has determined that the Company is a facilities-based carrier and provides the supported services over its own facilities under section 214(e)(1)(A).





## ETC APPLICATIONS (cont'd)

- While Virgin Mobile does not hold absolute, direct legal title to the communications facilities necessary to provide its services, the Commission does not impose such a requirement for purposes of section 214(e)(1)(A).
  - In determining that the use of unbundled network elements satisfied the facilities-based requirement, the Commission concluded that the term “own facilities” in section 214(e)(1) includes property which a carrier “considers its own” or to which it “does not hold absolute title.” (*In re Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶ 159 (1997))
  - The Commission also determined that the language “its own facilities” is not the same as facilities “owned by” the carrier and that ownership, for purposes of section 214(e)(1)(A), extends to “others enjoying the beneficial use” of the property.



## ETC APPLICATIONS (cont'd)

- Virgin Mobile is not a reseller of wireless services.
  - The Commission has, on numerous occasions, defined “resellers” as entities that “purchase airtime from facilities-based providers and resell service to the public for profit.”
  - Thus, to be considered a “reseller” under Commission precedent, Virgin Mobile would have to purchase wholesale network capacity from its affiliates and resell it to its own customers.
- Since its acquisition by Sprint, Virgin Mobile no longer purchases network capacity from any entity and makes no payments for the use of any network or transmission services.
- Sprint currently treats all revenue generated by customers of Virgin Mobile-branded services as revenue generated from its Wireless segment for purposes of its USAC and SEC filings—just as it does for any other Sprint operating subsidiary.



## ETC APPLICATIONS (cont'd)

- Virgin Mobile's Lifeline customers enjoy the same 911 and E911 service as any other Sprint wireless customer using Sprint's existing 911 and E911 facilities and PSAP relationships.
- All 911 emergency calls made by customers of Virgin Mobile-branded services are handled in the same fashion as calls made by any other Sprint customer.
  - Emergency 911 calls originating from Virgin Mobile-branded services are received by Sprint Corporate Security, which maintains responsibility for routing it to the appropriate PSAP, just as with any other 911 call made by any other Sprint customer.
- Sprint Corporate Security also handles any inbound PSAP inquiry regarding customers of Virgin Mobile-branded services—just as it does for customers receiving service from any other Sprint-branded service.



## REQUEST TO MODIFY COMPLIANCE PLAN

- On October 29, 2009, the Commission approved Virgin Mobile's plan detailing the procedures it would undertake to satisfy the conditions imposed on its initial grant of ETC designation.
- Included among these conditions was a requirement that the Company certify customers' initial eligibility for receipt of Lifeline services.
- As described in the compliance plan, Lifeline applicants currently contact a toll-free number to complete an enrollment form, which is then mailed to the customer for signature and certification under penalty of perjury.
- Virgin Mobile's request to modify its compliance plan seeks to simplify the methods by which eligible customers enroll in the Company's Lifeline service. *The review and verification procedures will remain unchanged.*



## REQUEST TO MODIFY COMPLIANCE PLAN (cont'd)

- Virgin Mobile has requested authority to implement two additional methods of enrollment:
- Online enrollment. Applicants will complete an enrollment form “online,” electronically signing the form and certifying under penalty of perjury as to their initial eligibility.
  - This method of enrollment already has been approved by the Commission and emulates the activities of other Lifeline providers
- IVR enrollment. Applicants will complete, sign and certify an enrollment form through an IVR telephone-based system that will record and save applicants’ penalty of perjury certification as a section of the application (the penalties of perjury will be provided to the customer prior to the customer’s voice certification).
  - This method of enrollment is consistent with the FCC’s rules governing use of a voice response unit for telecommunications services orders.



## REQUEST TO MODIFY COMPLIANCE PLAN (cont'd)

- Each method of enrollment fully complies with the requirements set forth in the Commission's grant of ETC designation to the Company, including those governing customer certification.
- Under each enrollment method, applications will continue to be carefully reviewed and verified by Virgin Mobile.
- Implementation of these enrollment procedures will increase the opportunities for Virgin Mobile to serve lower-income customers by accelerating and simplifying the customer enrollment process, without compromising the review and verification process.
- By providing additional methods for customers to activate their prepaid Lifeline accounts, Virgin Mobile seeks to broaden the availability of Lifeline services to lower-income customers.



## REQUEST TO MODIFY COMPLIANCE PLAN (cont'd)

- In light of its acquisition by Sprint, and the fact that Virgin Mobile is no longer a reseller, Virgin Mobile respectfully requests that the compliance plan be waived or modified to recognize the Company as a facilities-based carrier.
  - No other facilities-based ETC is subject to a compliance plan.
- If the FCC determines that a compliance plan remains necessary, it should be modified to address only the prepaid nature of Virgin Mobile's Lifeline services:
  - Removal of PSAP certification requirement.
  - Adoption of flexible initial certification and annual verification procedures to provide eligible customers with the greatest opportunity to obtain and retain Lifeline services.
  - Implementation of safeguards to prevent fraud.



## CONCLUSION

- Rapid grant of the Company's pending ETC designation petitions will bridge the affordability gap to wireless services for many lower-income customers and hasten competition for Lifeline services in additional states.
- Expeditious approval of the additional enrollment methods would streamline and simplify the Lifeline application process for legitimate eligible customers in certain states where the Company is presently offering Lifeline services, without compromising the review and verification process in any way.